

**APPROVED MINUTES**  
**FLATHEAD COUNTY BOARD OF ADJUSTMENT**  
**December 6, 2022**

*Note: These minutes are paraphrased to reflect the proceeding of the Flathead County Board of Adjustment meeting, per MCA 2-3-212*

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. at the 2nd Floor Conference Room of the South Campus Building, 40 11th Street West, Suite 200, Kalispell, Montana. Board members present were Tom Davis, Cal Dyck, Jim Dyon., and Tobias Liechti. Roger Noble had an excused absence. Erik Mack, Erin Appert, and Zachary Moon represented the Flathead County Planning & Zoning Office.

There were 8 members of the public in attendance at the meeting and 6 members of the public in attendance over Zoom.

[06:00:31 PM \(00:00:00\)](#)

**A. Call to order and roll call.**

[Citizen Member - Cal Dyck: Present](#)

[Citizen Member - Jim Dyon: Present](#)

[Citizen Member - Roger Noble: Absent](#)

[Citizen Member - Tobias Liechti: Present](#)

[Citizen Member - Tom Davis: Present](#)

[06:00:52 PM \(00:00:22\)](#)

**B. Approval of the November 1, 2022 meeting minutes**

[Citizen Member - Tobias Liechti: Motion](#)

[Citizen Member - Jim Dyon: 2nd](#)

[Citizen Member - Cal Dyck: Approve](#)

[Citizen Member - Jim Dyon: Approve](#)

[Citizen Member - Roger Noble: Absent](#)

[Citizen Member - Tobias Liechti: Approve](#)

[Citizen Member - Tom Davis: Approve](#)

[06:01:25 PM \(00:00:55\)](#)

**C. Public comment on public matters that is within the jurisdiction of the Board (2-3-103 M.C.A.)**

**D. Public Hearings:**

[06:01:55 PM \(00:01:25\)](#)

1. **FZV-22-10** A request from James & Dianne Brown for a variance to Section 3.16.040(3)(A) of the Flathead County Zoning Regulations (FCZR), to the setbacks for a principal structure. The property is zoned *RC-1 (Residential Cluster)* and is located at 156 Bjork Drive, Bigfork, MT within the Bigfork Zoning District.



Staff Report



Application



Plot Plan

Zachary Moon reviewed Staff Report FZV-22-10 for the Board.

Applicant-None

Public Comment-None

[06:07:09 PM \(00:06:38\)](#)

**Motion to Adopt Staff Report FZV-22-10 as Findings-of-Fact**

[Citizen Member - Tom Davis: Motion](#)  
[Citizen Member - Tobias Liechti: 2nd](#)  
[Citizen Member - Cal Dyck: Approve](#)  
[Citizen Member - Jim Dyon: Approve](#)  
[Citizen Member - Roger Noble: Absent](#)  
[Citizen Member - Tobias Liechti: Approve](#)  
[Citizen Member - Tom Davis: Approve](#)

[06:07:40 PM \(00:07:09\)](#)

**Motion to deny FZV-22-10**

[Citizen Member - Tobias Liechti: Motion](#)  
[Citizen Member - Tom Davis: 2nd](#)  
[Citizen Member - Cal Dyck: Approve](#)  
[Citizen Member - Jim Dyon: Approve](#)  
[Citizen Member - Roger Noble: Absent](#)  
[Citizen Member - Tobias Liechti: Approve](#)  
[Citizen Member - Tom Davis: Approve](#)

[06:08:09 PM \(00:07:39\)](#)

2. **FZV-22-11** A request from Doug & Toni Flory, Elisabeth & Scott Harris, and Meredith & Scott Somerset for a variance to Section 3.25.040(4)(B) of the Flathead County Zoning Regulations (FCZR), to the side yard setback requirements. The parcel is located at 108 Wood Run Court Unit B, near Whitefish, MT within the Rural Whitefish Zoning District. The property is zoned BM-1 (Big Mountain Resort Residential)



Staff Report



Application



Site Plan

Erin Appert reviewed Staff Report FZV-22-11 for the Board.

Applicant- Toni Flory spoke via zoom. She summarized the proposal for the board stating there would be no land disturbed and there wouldn't be any encroachment on the neighboring property. She stated the request was low impact.

Public Comment-None

[06:17:18 PM \(00:16:48\)](#)

**Motion to Adopt Staff Report FZV-22-11 as Findings-of-Fact**

[Citizen Member - Tom Davis: Motion](#)  
[Citizen Member - Jim Dyon: 2nd](#)  
[Citizen Member - Cal Dyck: Approve](#)  
[Citizen Member - Jim Dyon: Approve](#)  
[Citizen Member - Roger Noble: Absent](#)  
[Citizen Member - Tobias Liechti: Approve](#)  
[Citizen Member - Tom Davis: Approve](#)

[06:17:48 PM \(00:17:18\)](#)

**Motion to deny FZV-22-11**

[Citizen Member - Tobias Liechti: Motion](#)

[Citizen Member - Tom Davis: 2nd](#)

[Citizen Member - Cal Dyck: Approve](#)

[Citizen Member - Jim Dyon: Approve](#)

[Citizen Member - Roger Noble: Absent](#)

[Citizen Member - Tobias Liechti: Approve](#)

[Citizen Member - Tom Davis: Approve](#)

[06:18:58 PM \(00:18:27\)](#)

3. **FACU-22-104** A request from Stephen E. Fisher, for the establishment of 'Short-term Rental Housing' on property located within the Lower Side Zoning District. The property is located at 354 Orchard Ridge Road, Kalispell, MT and is zoned SAG-5 (Suburban Agricultural). Per Section 2.06.045(5) of the Flathead County Zoning Regulations (FCZR), if written opposition from adjacent property owners was received prior to the end of the comment period and the expressed concerns of opposition cannot be resolved by the applicant or by conditions of approval, the Flathead County Board of Adjustment is required to review the request. An application was previously denied by the Board of Adjustment on September 6, 2022. However, a new application was submitted with additional information that would require review by the Board. The property contains approximately 5.39 acres



[Staff Report](#)



[Application](#)



[HydroSolutions Report](#)



[Hydrogeologist Report](#)

Zachary Moon reviewed Staff Report FACU-22-104 for the Board.

Applicant-Stephen Fisher spoke via zoom. He summarized his proposal for the board and stated his intent for the property. He spoke about the new information he submitted since his proposal had been denied by the board on September 6, 2022. He also spoke about the guest rules, the concerns regarding the covenants, and the way he was mitigating the concerns of the neighbors. He read some of the letters that were in support and some that were against his proposal.

**Public Comment-**

Bob Borges, 1395 Echo Lake Rd, Bigfork spoke in support of the proposal. He spoke about one of the concerns of a neighbor regarding fires hazards and the emergency contact being able to handle the response to the neighbors' concerns.

Brent & Cassie Fisher, 791 Fox Den Trail, spoke in support of the proposal. They felt they were being targeted as outsiders. They also spoke about the well and emergency services.

Orrin Webber, 460 Orchard Ridge Rd, spoke in opposition of the proposal. He stated he has lived on his property for 35 years. He spoke about the covenants, a short-term rental being a commercial business, out of state people wanting to make changes, and the neighbors being against it. He felt it was a terrible way to move into the neighborhood.

Eric Anderson, 357 Orchard Ridge Rd, spoke in opposition of the proposal. He spoke about setting a precedent, safety, the lack of sidewalks, strangers being unfamiliar with the roads, and access for emergency vehicles. He reiterated his concern for the safety of the residence.

Al Otto, 400 Orchard Ridge Rd, spoke in opposition of the proposal. He stated they have never had commercial in the neighborhood. He spoke about the lack of sidewalks, covenants, the road being narrow, and the fact the neighborhood would be changed forever if this proposal were approved.

Glen Fulton, 345 Orchard Ridge Rd, spoke in opposition of the proposal. He stated the rule of law was relevant and said the letter from Teresa Hash said it all. He was concerned about the applicant changing his mind and wanting to have the short-term rental year-round.

Peter Saunders, spoke in opposition of the proposal. He spoke about the water delivery system, the maintenance of the water lines, the emergency contact response time, the covenants, road access, the character of the neighborhood, and the wildfire risk. He encouraged the board to deny the proposal.

Dale Preston, 350 Orchard Ridge Road, spoke in opposition of the proposal. He stated the neighborhood is quiet and he was concerned about noise, setting a precedent, the shared well, and maintenance of the well.

Scott Jahnke, 75 Wolf Trail, spoke in opposition of the proposal. He spoke about Montana law regarding short-term rentals, covenants, precedent, zoning, and the quiet neighborhood. He felt it was unfair that a property owner signed the covenants in good faith and then a new owner moves in and feels the covenants don't apply to them. He didn't see anything from the applicant that would change the boards minds about denying the short-term rental.

Susan McEwan, 411 Orchard Ridge Road, spoke in opposition of the proposal. She was concerned about safety, and agreed with previous speakers.

Pamela Haglund, 375 Orchard Ridge Road, spoke in opposition of the proposal. She agreed with previous speakers and felt they were valid. She was concerned about safety and stated the applicant was choosing to ignore the covenants.

Applicant Rebuttal-Fisher said he appreciated the concerns of the neighbors and stated he addressed the concerns of the board and mitigated them. He stated he intends to be a good resident and an active member of the community. He asked the board to approve his application.

Staff Rebuttal-None

**The Board took a short recess to read the written comments that were received after packets were sent.**

[07:36:03 PM \(01:28:15\)](#)

**Motion to Adopt Staff Report FACU-22-104 as Findings-of-Fact as amended**

[Citizen Member - Cal Dyck: Motion](#)

[Citizen Member - Tobias Liechti: 2nd](#)

[Citizen Member - Cal Dyck: Approve](#)

[Citizen Member - Jim Dyon: Approve](#)

[Citizen Member - Roger Noble: Absent](#)

[Citizen Member - Tobias Liechti: Approve](#)

[Citizen Member - Tom Davis: Approve](#)

[07:36:37 PM \(01:28:49\)](#)

**Motion to deny FACU-22-104**

[Citizen Member - Tobias Liechti: Motion](#)

[Citizen Member - Jim Dyon: 2nd](#)

[Citizen Member - Cal Dyck: Approve](#)

[Citizen Member - Jim Dyon: Approve](#)

[Citizen Member - Roger Noble: Absent](#)

[Citizen Member - Tobias Liechti: Approve](#)

[Citizen Member - Tom Davis: Approve](#)

[07:38:21 PM \(01:30:33\)](#)

**E. Old Business**

**F. New Business**

[07:38:25 PM \(01:30:36\)](#)

**G. Adjournment**

**Approved on 1/03/2023 on a Roll Call Vote 3 to 1 - Noble Abstained**